

REMARKS

The present amendment is submitted in conjunction with a simultaneously filed Request for Continued Examination (RCE) and in response to the final Office Action dated September 20, 2006, which set a three-month period for response, making a response due by December 20, 2006, and with the initial two-month period for response expiring on November 20, 2006.

Claims 1-5 and 7-21 are pending in this application.

In the final Office Action, claims 15-17 and 21 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,414,260 to Vogt. Claims 1, 4, 5, 7-10, 13, 14, and 15-21 stand rejected under 35 U.S.C. 102(b) or alternatively under 35 U.S.C. 102(a) as being anticipated by applicant admitted prior art (AAPA). Claims 2, 3, 11 and 12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of U.S. Patent No. 5,920,014 to Waschkies.

In the present amendment, claim 1 has been amended to more clearly define the structure of the clamping element, specifically, that "outer contours of the clamping element and sensor are formed to correspond with an outer contour of the electrode arm, so that after assembly, the clamping element, the sensor, and the electrode arm together produce a stepless outer contour". Support for this feature can be found in the specification of the present application on page 23, lines 3-6.

The Applicants respectfully submit that the AAPA does not show this stepless outer contour of the device when these elements are assembled. Rather, as discussed in the specification of the present application on pages 5-7, the prior art shows configurations in which the clamping elements are fitted onto the cylindrical shaft of the electrode. These constructions do not offer the space-saving, more compact and therefore advantageous structure of the present invention as defined in claim 1.

Likewise, Vogt does not disclose or suggest this feature.

Thus, the cited art cannot be an appropriate reference either under MPEP section 2131, which indicates that to anticipate a claim a reference must teach every element of the claim in as complete detail as is contained in the Applicants' claim, or under MPEP section 2143.03, since not all of the Applicants' claim limitations are taught or suggested.

For the reasons set forth above, the Applicants respectfully submit that the claims as amended herein define a patentably distinct set of features that is neither shown nor suggested by the cited references. Allowance of claims 1-5 and 7-21 is respectfully requested.

Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,

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